

LSK&D #: 564-8007 / 981626

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SERGIO PAVON,

Plaintiff,

No. 08 CV 1272 (PAC)

-against-

ANSWER

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.
-----X

Defendant Metropolitan Life Insurance Company ("MetLife"), by its attorneys, Lester Schwab Katz & Dwyer, LLP, for its Answer to the Summons with Notice, states as follows:

1. Denies each and every allegation contained in the 2nd paragraph of the Summons with Notice, except admits that plaintiff Sergio Pavon claimed long-term disability ("LTD") benefits under the Novartis Pharmaceutical LTD Plan (the "Plan"), an employee welfare benefit plan governed by the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1001 et seq., and that MetLife administers claims for LTD benefits under the Plan.

AFFIRMATIVE DEFENSES

2. Plaintiff has failed to state a claim upon which relief can be granted.

3. Plaintiff's state law claims are pre-empted by ERISA.

4. Plaintiff's remedies for alleged wrongful claim processing are limited to those provided by ERISA.

5. Plaintiff's claims for extra-contractual and/or punitive damages should be dismissed because such damages are not available under ERISA.

6. Plaintiff's claims should be dismissed because MetLife administered plaintiff's benefits claim in accordance with the terms of the Plan and in the interest of all Plan participants.

7. Plaintiff's claims should be dismissed because MetLife did not act arbitrarily or capriciously in administering plaintiff's claim for LTD benefits.

8. Plaintiff is not entitled to attorney's fees for legal work performed during the claim administration process.

9. Plaintiff has failed to exhaust administrative remedies provided under the Plan.

10. Plaintiff's claim for LTD benefits is, under the terms of the Plan, subject to offsets for other income benefits plaintiff may be receiving or be entitled to.

11. Plaintiff's claim for LTD benefits should be dismissed as moot because he is currently being paid LTD benefits.

WHEREFORE, defendant MetLife demands judgment against plaintiff, dismissing his lawsuit in its entirety, together with recovery of its attorney's fees, costs and disbursements of this action, and such other and further relief as this Court shall deem just and proper.

Dated: New York, New York
February 14, 2008

Respectfully submitted,

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